

Committee on Energy and Commerce Republican Office

U.S. House of Representatives

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To:	Mr. Greg Guice, Director of Legislative Affairs, Federal Communications Commission for
	Chairman Julius Genachowski, Federal Communications Commission
From:	Rep. Fred Upton, Chairman, Committee on Energy and Commerce
	Rep. Greg Walden; Chairman, Subcommittee on Communications and Technology
	Rep. Cliff Steams; Chairman, Subcommittee on Oversight and Investigations
Fax:	(202) 418-2806
Date:	February 28, 2012
Phones	
Pagesi	5 (Including cover)
Notes	

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE 2125 RAYBURN HOUSE OFFICE BUILDING WASHINGTON, DC 20515-6115

> Majority (202) 225-2927 Minority (202) 225-3641

February 28, 2012

The Honorable Julius Genachowski Chairman Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554

Dear Chairman Genachowski:

The Energy and Commerce Committee has been closely following the work of the Federal Communications Commission (Commission) and the National Telecommunications and Information Administration (NTIA) regarding the interference dispute between LightSquared and the Global Positioning System (GPS) community.

In April 2009, SkyTerra Communications and LightSquared (then called Harbinger Capital Partners Funds) filed applications at the Commission to transfer SkyTerra's L-Band spectrum licenses so that LightSquared could deploy a nationwide, wholesale wireless broadband network, relying in significant part on the Ancillary Terrestrial Component (ATC) of the Mobile Satellite Service. In March 2010, the Commission's International Bureau and Wireless Telecommunications Bureau granted that transfer conditioned on, among other things, an aggressive build-out schedule and a restriction on providing service to the nation's two largest wireless providers. In November 2010, LightSquared asked the Commission to waive the integrated-service rule that applied to its ATC authority. In January 2011, the International Bureau granted that request, conditioned on testing by a Technical Working Group that showed that LightSquared's deployment of terrestrial service in the L-Band spectrum would not cause widespread, harmful interference to GPS devices. In September 2011, NTIA charged the interagency National Executive Committee for Space-Based Positioning, Navigation and Timing (PNT ExCom) with validating the testing done by the Technical Working Group. And on February 15, 2012, one day after receiving NTIA's review of PNT ExCom's work, the International Bureau issued a public notice tentatively concluding that the Commission should suspend the ability of LightSquared to deploy terrestrial service in the L-Band spectrum it is now licensed to use.

As the Committee with jurisdiction over federal communications policy and pursuant to Rules X and XI of the United States House of Representatives, we respectfully request that you submit to the Committee the following documents:

- D1. All written and electronic communications from April 2009 to the present between (1) any employee or agent of Harbinger Capital Partners, LightSquared, or SkyTerra Communications and (2) any member or employee of the Commission.
- D2. All written and electronic communications from April 2009 to the present between (1) any employee or agent of Garmin, Trimble, John Deere, or any other manufacturer of GPS equipment and (2) any member or employee of the Commission.
- D3. All written and electronic communications from April 2009 to the present between (1) any employee or agent of the White House, NTIA, or any other executive agency and (2) any member or employee of the Commission regarding the deployment of terrestrial service in the L-Band spectrum now licensed to LightSquared.
- D4. All written and electronic communications from April 2009 to the present among members or employees of the Commission regarding the deployment of terrestrial service in the L-Band spectrum now licensed to LightSquared.
- D5. All written and electronic communications from April 2009 to the present among members or employees of the Commission regarding the processes used to evaluate the proposed deployment of terrestrial service in the L-Band spectrum now licensed to LightSquared. As part of this request, please include all communications regarding the timetables for commenting and testing, the use of delegated authority, the use of a waiver rather than a rulemaking to change the integrated services rule, and the conditions attached to the SkyTerra/LightSquared transaction and the integrated-services-rule waiver.
- D6. A list of all tests conducted by any party before January 26, 2011, regarding potential interference with GPS devices from the deployment of terrestrial service in the L-Band spectrum, noting who conducted each test, the date of the testing, the location of the testing, the devices tested, and a brief summary of the results of each test.
- D7. All documents prepared by Commission staff before January 26, 2011, analyzing potential interference with GPS devices from the deployment of terrestrial service in the L-Band spectrum.
- D8. A list of all tests conducted by any party after January 26, 2011, regarding potential interference with GPS devices from the deployment of terrestrial service in the L-Band spectrum, noting who conducted each test, the date of the testing, the location of the testing, the devices tested, and a brief summary of the results of each test.

D9. All documents prepared by Commission staff from January 26, 2011 to the present analyzing potential interference with GPS devices from the deployment of terrestrial service in the L-Band spectrum.

In responding to these requests, please exclude any documents that are available in unredacted form on the Commission's Electronic Comment Filing System (ECFS).

We also respectfully ask that you provide written answers to the following questions by March 13, 2012:

- Q1. In light of the complexities involved and the questions of law and policy previously unanswered by the Commission, why were the SkyTerra/LightSquared transaction and the integrated-services-rule waiver both granted on delegated authority without a Commission vote?
- Q2. Why did the Commission provide commenters only 13 days to comment and 7 days to reply on LightSquared's request to waive the integrated-services rule, even after commenters raised concerns about the short comment cycle?
- Q3. Why did the Commission condition its approval of the SkyTerra/LightSquared transaction on the exclusion of the two largest wireless providers from becoming LightSquared customers without Commission approval? Has the Commission ever adopted such a condition before?
- Q4. What was the purpose of waiving the integrated-service rule?
- Q5. How and when did the Commission become aware that deployment of terrestrial service in the L-Band spectrum could potentially interfere with GPS devices even if that service conformed to the Commission's established power limits and out-of-band emissions requirements?
- Q6. Did the Commission conduct any independent evaluation of (1) the testing done by the Technical Working Group, (2) the testing done by PNT ExCom, and/or (3) the recommendations of NTIA before tentatively concluding that the Commission should suspend the ability of LightSquared to deploy terrestrial service in the L-Band spectrum it is now licensed to use.

Please contact Committee staff to arrange delivery of the materials and to arrange a briefing with Committee staff regarding these matters. An attachment to this letter provides additional information on how to respond to the Committee's request. If you have any questions, please do not hesitate to contact Committee staff David Redl or Daniel Tyrrell at (202) 225-2927.

Sincerely,

Fred Upton Chairman Greg Walden

Chairman

Subcommittee on Communications and Technology

Cliff Stearns Chairman

Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna G. Eshoo, Ranking Member Subcommittee on Communications and Technology

The Honorable Diana DeGette, Ranking Member Subcommittee on Oversight and Investigations

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

- 1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.
- 2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
- 3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
- 4. Each document should be produced in a form that may be copied by standard copying machines.
- 5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
- 6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.
- 7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
- 8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
- 9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

- 10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.
- 11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:
 - a. how the document was disposed of;
 - b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
 - c. the date of disposition;
 - d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.
- 12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.
- 13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
- 14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
- 15. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.
- 16. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.
- 17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each

other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

- 18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.
- 19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a privilege log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

- 2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
- 3. The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.
- 4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.
- 5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
- 6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
- 7. The terms "you" or "your" mean and refers to

For government recipients:

"You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

FEDERAL COMMUNICATIONS COMMISSION



JULIUS GENACHOWSKI

March 23, 2012

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Walden:

Your letter of February 28, 2012, asked for responses to several questions regarding the interference dispute between LightSquared and the Global Positioning System (GPS) community. In addition to the written responses below, my staff has briefed Committee staff on these issues and is working to respond fully to your February 28 letter.

The history relevant to the LightSquared matter goes back more than a decade. I am attaching a summary chronology for the Committee's information. As the chronology reflects, the Commission has taken very seriously all interference issues raised by the Ancillary Terrestrial Component (ATC) to Mobile Satellite Service (MSS), including potential interference from LightSquared's proposed commercial service. At the same time, the Commission has also emphasized the critical importance to our Nation's economic growth and global competitiveness of making spectrum available for mobile broadband. That goal is vital and must be achieved without compromising national security or public safety.

Accordingly, as interference concerns regarding MSS/ATC operations have been raised, the Commission has consistently worked to address and resolve them. In 2003, for instance, when the FCC established industry-wide rules authorizing the ATC offerings that recently have been at issue in the LightSquared matter, it adopted a regulation stating that "[i]f harmful interference is caused to other services by ancillary MSS ATC operations, either from ATC base stations or mobile terminals, the MSS ATC operator must resolve any such interference."

Consistent with that longstanding rule, the Commission has taken effective steps to ensure that GPS interference concerns are resolved before LightSquared can offer commercial terrestrial service using the former SkyTerra L-Band spectrum. In March 2010, the Commission's International Bureau authorized the modification of SkyTerra's former MSS/ATC license to accommodate LightSquared's wholesale business plan. It

^{1 47} C.F.R. § 25.255.

did so only after all interference concerns raised at that time by the GPS industry had been resolved. Similarly, after LightSquared sought a modification of its MSS/ATC authority in November 2010 to better reflect its wholesale business model, and the GPS industry raised a new "overload" interference concern for the first time, the International Bureau explicitly conditioned any commercial terrestrial operations by LightSquared under a waiver of the MSS/ATC rules on resolution of these concerns. Specifically, the Bureau required LightSquared, before it could commence its planned commercial operations, to participate in testing and analysis conducted by a technical working group to address "the interference concerns regarding GPS . . . to the Commission's satisfaction." Last month, after the National Telecommunications and Information Administration (NTIA) informed the Commission of the results of government interference testing, the International Bureau issued a Public Notice seeking comment on whether to vacate its January 2011 Conditional Waiver Order "due to LightSquared's inability to address satisfactorily the legitimate interference concerns." The proceeding initiated by that Public Notice remains open and provides all interested parties a full opportunity to comment.⁵

The Commission has employed thorough, public, and fair processes throughout its LightSquared proceedings. In particular, in response to your Question 1, it was appropriate for the Commission's International Bureau to issue the orders your letter identifies. Under Parts 0 and 1 of the Commission's rules, the International Bureau and the other FCC bureaus and offices are delegated authority to address a wide range of matters in the first instance, subject to review by the full Commission. Applications for approval of transfers of control of FCC licenses, as well as petitions for interpretation or waiver of rules, are decided at the staff level on delegated authority where the action involved is consistent with general Commission policy. Disposition of such licensing

² These interference issues, which related to out-of-band emissions, are different from the receiver overload issues that GPS providers later raised. In August 2009, the U.S. GPS Industry Council and SkyTerra (LightSquared's predecessor) jointly filed with the FCC a letter indicating that the out-of-band emissions interference issue had been resolved. *See* Letter from Raul Rodriguez, Counsel for the U.S. GPS Industry Council (GPSIC) to Marlene H. Dortch, Secretary, FCC, No. SAT-MOD-20090429-00047 (dated Aug. 17, 2009).

³ LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, Order and Authorization ("Conditional Waiver Order"), 26 FCC Rcd 566, ¶ 41 (Int'l Bur., 2011). These concerns were documented in GPSIC's December 2 comments in the proceeding, which included as an attachment a September 15, 2010 filing by GPSIC raising similar concerns in ET Docket No. 10-142, Notice of Proposed Rulemaking and Notice of Inquiry, Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz.

⁴ International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver, Public Notice, IB Docket No. 11-109, at 4 (Int'l Bur., rel. Feb. 15, 2012).

⁵ The attached chronology provides a more detailed timeline and responds more fully to your inquiry (Question 5) as to when the Commission became aware of potential interference with GPS devices.

matters on delegated authority is a practical necessity for timely and efficient completion of the Commission's business, while the opportunity for further review by the full Commission ensures that unresolved issues can be addressed by the Commissioners themselves.

Similarly, in response to your Question 2, the time periods for comment on LightSquared's request for modification of its ATC authority in November 2011 were consistent with the Commission's rules and procedures, and they were sufficient to enable the GPS industry and many other commenters to participate actively in the modification proceeding. Only one party, CTIA, requested an extension of the original filing deadlines, and the Bureau extended the deadlines in response to that request. Moreover, there was good reason for the International Bureau to avoid undue delay in considering a requested action that could facilitate the deployment of broadband services on under-utilized spectrum. LightSquared's filing involved familiar MSS/ATC operations and technologies and did not involve any change to the technical parameters of LightSquared's satellite and ATC transmitters. LightSquared's proposal involved only whether consumer devices would need to have both satellite and terrestrial capability in all cases and thus did not require significant technical or engineering review - with one exception. That one exception - presented during the comment period on the requested modification - was the newly raised concern about overload interference from LightSquared's ATC transmitters to GPS devices. Notably, the interference concerns were based on transmissions from LightSquared's base stations, yet LightSquared's request did not seek relief from any of the base station requirements. Nevertheless, the Bureau promptly and effectively addressed these overload interference concerns by creating an interference resolution process, so that any commercial service would not be permitted without prior resolution of the GPS interference issues. This process has yielded important information about GPS interference that the Commission and the public are now able to assess.

Your letter further inquires (Question 3) as to the Commission staff's reasons for adopting, in March 2010, two conditions on the SkyTerra/LightSquared transaction that required FCC approval before LightSquared could lease spectrum or make more than 25% of its network capacity available to the two largest wireless providers. Absent such conditions, LightSquared would have been able to avoid Commission review of wholesale transactions that could raise significant public interest issues. The Commission has rules, codified at 47 C.F.R. §§ 1.9001-1.9080, that generally provide for a review process for spectrum leasing and wholesaling by wireless providers. But at the time of the SkyTerra/LightSquared transaction, there were no comparable rules for MSS spectrum. The conditions proposed by LightSquared were accepted by the staff as part of its public interest analysis of this particular transaction because they helped to address this gap, which existed at the time. The Commission has since adopted a rule of general applicability that addresses the spectrum-leasing issue on an industry-wide basis and

⁶ LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, Order, SAT-MOD-20101118-00239 (Int'l Bur., rel. Nov. 26, 2010).

without reference to the market positions of the carriers involved in the lease arrangement.⁷

You asked (Question 4) why the International Bureau waived the integrated-service rule for MSS/ATC devices as to LightSquared. The Bureau explained the reasons for this action in its January 2011 Conditional Waiver Order. Those reasons included that LightSquared was (1) "already a significant and substantial provider" of MSS; (2) making significant efforts to rationalize narrow, interleaved portions of L-Band spectrum with Inmarsat which operates in the same band, thus supporting deployment of broadband MSS and MSS/ATC services in the band; (3) investing over \$50 million in dual-mode (that is, terrestrial and satellite) service and devices; (4) subject to "significant terrestrial buildout milestones"; and (5) committing as part of the waiver decision to take further actions that would "ensure consistency" with the underlying purposes of the FCC rule requiring integration of ATC and MSS operations, by requiring that LightSquared continue actively to market its MSS and to offer dual-mode devices at prices "competitive with similar terrestrial-only devices."

Finally, in response to your inquiry (Question 6) whether the Commission has independently evaluated the recent NTIA recommendations and related materials, the Commission has put out for public comment the questions raised by those materials. Initial comments were filed on March 16, 2012, and reply comments are due on March 30. After receiving those comments, the Commission and its expert technical staff will review the relevant materials, and the comments regarding them, as part of the ordinary decision-making process.

I appreciate this opportunity to respond to your questions.

Sincerely,

Jalius Genachowski

Enclosure

⁷ Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHZ, ET Docket No. 10-142, Report and Order, 26 FCC Rcd 5710 (2011).

⁸Conditional Waiver Order, 26 FCC Rcd at 581-83, ¶¶ 29-35.

FEDERAL COMMUNICATIONS COMMISSION



JULIUS GENACHOWSKI CHAIRMAN March 23, 2012

The Honorable Fred Upton Chairman Committee on Energy and Commerce U.S. House of Representatives 2125 Rayburn House Office Building Washington, D.C. 20515

Dear Chairman Upton:

Your letter of February 28, 2012, asked for responses to several questions regarding the interference dispute between LightSquared and the Global Positioning System (GPS) community. In addition to the written responses below, my staff has briefed Committee staff on these issues and is working to respond fully to your February 28 letter.

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Accordingly, as interference concerns regarding MSS/ATC operations have been raised, the Commission has consistently worked to address and resolve them. In 2003, for instance, when the FCC established industry-wide rules authorizing the ATC offerings that recently have been at issue in the LightSquared matter, it adopted a regulation stating that "[i]f harmful interference is caused to other services by ancillary MSS ATC operations, either from ATC base stations or mobile terminals, the MSS ATC operator must resolve any such interference."

Consistent with that longstanding rule, the Commission has taken effective steps to ensure that GPS interference concerns are resolved before LightSquared can offer commercial terrestrial service using the former SkyTerra L-Band spectrum. In March 2010, the Commission's International Bureau authorized the modification of SkyTerra's former MSS/ATC license to accommodate LightSquared's wholesale business plan. It did so only after all interference concerns raised at that time by the GPS industry had

¹ 47 C.F.R. § 25.255.

been resolved.² Similarly, after LightSquared sought a modification of its MSS/ATC authority in November 2010 to better reflect its wholesale business model, and the GPS industry raised a new "overload" interference concern for the first time, the International Bureau explicitly conditioned any commercial terrestrial operations by LightSquared under a waiver of the MSS/ATC rules on resolution of these concerns. Specifically, the Bureau required LightSquared, before it could commence its planned commercial operations, to participate in testing and analysis conducted by a technical working group to address "the interference concerns regarding GPS . . . to the Commission's satisfaction." Last month, after the National Telecommunications and Information Administration (NTIA) informed the Commission of the results of government interference testing, the International Bureau issued a Public Notice seeking comment on whether to vacate its January 2011 *Conditional Waiver Order* "due to LightSquared's inability to address satisfactorily the legitimate interference concerns." The proceeding initiated by that Public Notice remains open and provides all interested parties a full opportunity to comment.⁵

The Commission has employed thorough, public, and fair processes throughout its LightSquared proceedings. In particular, in response to your Question 1, it was appropriate for the Commission's International Bureau to issue the orders your letter identifies. Under Parts 0 and 1 of the Commission's rules, the International Bureau and the other FCC bureaus and offices are delegated authority to address a wide range of matters in the first instance, subject to review by the full Commission. Applications for approval of transfers of control of FCC licenses, as well as petitions for interpretation or waiver of rules, are decided at the staff level on delegated authority where the action involved is consistent with general Commission policy. Disposition of such licensing matters on delegated authority is a practical necessity for timely and efficient completion

² These interference issues, which related to out-of-band emissions, are different from the receiver overload issues that GPS providers later raised. In August 2009, the U.S. GPS Industry Council and SkyTerra (LightSquared's predecessor) jointly filed with the FCC a letter indicating that the out-of-band emissions interference issue had been resolved. *See* Letter from Raul Rodriguez, Counsel for the U.S. GPS Industry Council (GPSIC) to Marlene H. Dortch, Secretary, FCC, No. SAT-MOD-20090429-00047 (dated Aug. 17, 2009).

³ LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, Order and Authorization ("Conditional Waiver Order"), 26 FCC Rcd 566, ¶ 41 (Int'l Bur., 2011). These concerns were documented in GPSIC's December 2 comments in the proceeding, which included as an attachment a September 15, 2010 filing by GPSIC raising similar concerns in ET Docket No. 10-142, Notice of Proposed Rulemaking and Notice of Inquiry, Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz.

⁴ International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver, Public Notice, IB Docket No. 11-109, at 4 (Int'l Bur., rel. Feb. 15, 2012).

⁵ The attached chronology provides a more detailed timeline and responds more fully to your inquiry (Question 5) as to when the Commission became aware of potential interference with GPS devices.

of the Commission's business, while the opportunity for further review by the full Commission ensures that unresolved issues can be addressed by the Commissioners themselves.

Similarly, in response to your Question 2, the time periods for comment on LightSquared's request for modification of its ATC authority in November 2011 were consistent with the Commission's rules and procedures, and they were sufficient to enable the GPS industry and many other commenters to participate actively in the modification proceeding. Only one party, CTIA, requested an extension of the original filing deadlines, and the Bureau extended the deadlines in response to that request. Moreover, there was good reason for the International Bureau to avoid undue delay in considering a requested action that could facilitate the deployment of broadband services on under-utilized spectrum. LightSquared's filing involved familiar MSS/ATC operations and technologies and did not involve any change to the technical parameters of LightSquared's satellite and ATC transmitters. LightSquared's proposal involved only whether consumer devices would need to have both satellite and terrestrial capability in all cases and thus did not require significant technical or engineering review – with one exception. That one exception – presented during the comment period on the requested modification - was the newly raised concern about overload interference from LightSquared's ATC transmitters to GPS devices. Notably, the interference concerns were based on transmissions from LightSquared's base stations, yet LightSquared's request did not seek relief from any of the base station requirements. Nevertheless, the Bureau promptly and effectively addressed these overload interference concerns by creating an interference resolution process, so that any commercial service would not be permitted without prior resolution of the GPS interference issues. This process has yielded important information about GPS interference that the Commission and the public are now able to assess.

Your letter further inquires (Question 3) as to the Commission staff's reasons for adopting, in March 2010, two conditions on the SkyTerra/LightSquared transaction that required FCC approval before LightSquared could lease spectrum or make more than 25% of its network capacity available to the two largest wireless providers. Absent such conditions, LightSquared would have been able to avoid Commission review of wholesale transactions that could raise significant public interest issues. The Commission has rules, codified at 47 C.F.R. §§ 1.9001-1.9080, that generally provide for a review process for spectrum leasing and wholesaling by wireless providers. But at the time of the SkyTerra/LightSquared transaction, there were no comparable rules for MSS spectrum. The conditions proposed by LightSquared were accepted by the staff as part of its public interest analysis of this particular transaction because they helped to address this gap, which existed at the time. The Commission has since adopted a rule of general applicability that addresses the spectrum-leasing issue on an industry-wide basis and

⁶ LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, Order, SAT-MOD-20101118-00239 (Int'l Bur., rel. Nov. 26, 2010).

without reference to the market positions of the carriers involved in the lease arrangement.⁷

You asked (Question 4) why the International Bureau waived the integrated-service rule for MSS/ATC devices as to LightSquared. The Bureau explained the reasons for this action in its January 2011 *Conditional Waiver Order*. Those reasons included that LightSquared was (1) "already a significant and substantial provider" of MSS; (2) making significant efforts to rationalize narrow, interleaved portions of L-Band spectrum with Inmarsat which operates in the same band, thus supporting deployment of broadband MSS and MSS/ATC services in the band; (3) investing over \$50 million in dual-mode (that is, terrestrial and satellite) service and devices; (4) subject to "significant terrestrial buildout milestones"; and (5) committing as part of the waiver decision to take further actions that would "ensure consistency" with the underlying purposes of the FCC rule requiring integration of ATC and MSS operations, by requiring that LightSquared continue actively to market its MSS and to offer dual-mode devices at prices "competitive with similar terrestrial-only devices."

Finally, in response to your inquiry (Question 6) whether the Commission has independently evaluated the recent NTIA recommendations and related materials, the Commission has put out for public comment the questions raised by those materials. Initial comments were filed on March 16, 2012, and reply comments are due on March 30. After receiving those comments, the Commission and its expert technical staff will review the relevant materials, and the comments regarding them, as part of the ordinary decision-making process.

I appreciate this opportunity to respond to your questions.

Sincerely,

Julius Genachowski

Enclosure

⁷ Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHZ, ET Docket No. 10-142, Report and Order, 26 FCC Rcd 5710 (2011).

⁸Conditional Waiver Order, 26 FCC Rcd at 581-83, ¶¶ 29-35.

FEDERAL COMMUNICATIONS COMMISSION



CHAIRMAN

March 23, 2012

The Honorable Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Stearns:

Your letter of February 28, 2012, asked for responses to several questions regarding the interference dispute between LightSquared and the Global Positioning System (GPS) community. In addition to the written responses below, my staff has briefed Committee staff on these issues and is working to respond fully to your February 28 letter.

The history relevant to the LightSquared matter goes back more than a decade. I am attaching a summary chronology for the Committee's information. As the chronology reflects, the Commission has taken very seriously all interference issues raised by the Ancillary Terrestrial Component (ATC) to Mobile Satellite Service (MSS), including potential interference from LightSquared's proposed commercial service. At the same time, the Commission has also emphasized the critical importance to our Nation's economic growth and global competitiveness of making spectrum available for mobile broadband. That goal is vital and must be achieved without compromising national security or public safety.

Accordingly, as interference concerns regarding MSS/ATC operations have been raised, the Commission has consistently worked to address and resolve them. In 2003, for instance, when the FCC established industry-wide rules authorizing the ATC offerings that recently have been at issue in the LightSquared matter, it adopted a regulation stating that "[i]f harmful interference is caused to other services by ancillary MSS ATC operations, either from ATC base stations or mobile terminals, the MSS ATC operator must resolve any such interference."

Consistent with that longstanding rule, the Commission has taken effective steps to ensure that GPS interference concerns are resolved before LightSquared can offer commercial terrestrial service using the former SkyTerra L-Band spectrum. In March 2010, the Commission's International Bureau authorized the modification of SkyTerra's former MSS/ATC license to accommodate LightSquared's wholesale business plan. It

^{1 47} C.F.R. § 25.255.

did so only after all interference concerns raised at that time by the GPS industry had been resolved. Similarly, after LightSquared sought a modification of its MSS/ATC authority in November 2010 to better reflect its wholesale business model, and the GPS industry raised a new "overload" interference concern for the first time, the International Bureau explicitly conditioned any commercial terrestrial operations by LightSquared under a waiver of the MSS/ATC rules on resolution of these concerns. Specifically, the Bureau required LightSquared, before it could commence its planned commercial operations, to participate in testing and analysis conducted by a technical working group to address "the interference concerns regarding GPS . . . to the Commission's satisfaction." Last month, after the National Telecommunications and Information Administration (NTIA) informed the Commission of the results of government interference testing, the International Bureau issued a Public Notice seeking comment on whether to vacate its January 2011 Conditional Waiver Order "due to LightSquared's inability to address satisfactorily the legitimate interference concerns." The proceeding initiated by that Public Notice remains open and provides all interested parties a full opportunity to comment.5

The Commission has employed thorough, public, and fair processes throughout its LightSquared proceedings. In particular, in response to your Question 1, it was appropriate for the Commission's International Bureau to issue the orders your letter identifies. Under Parts 0 and 1 of the Commission's rules, the International Bureau and the other FCC bureaus and offices are delegated authority to address a wide range of matters in the first instance, subject to review by the full Commission. Applications for approval of transfers of control of FCC licenses, as well as petitions for interpretation or waiver of rules, are decided at the staff level on delegated authority where the action involved is consistent with general Commission policy. Disposition of such licensing

² These interference issues, which related to out-of-band emissions, are different from the receiver overload issues that GPS providers later raised. In August 2009, the U.S. GPS Industry Council and SkyTerra (LightSquared's predecessor) jointly filed with the FCC a letter indicating that the out-of-band emissions interference issue had been resolved. *See* Letter from Raul Rodriguez, Counsel for the U.S. GPS Industry Council (GPSIC) to Marlene H. Dortch, Secretary, FCC, No. SAT-MOD-20090429-00047 (dated Aug. 17, 2009).

³ LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, Order and Authorization ("Conditional Waiver Order"), 26 FCC Rcd 566, ¶ 41 (Int'l Bur., 2011). These concerns were documented in GPSIC's December 2 comments in the proceeding, which included as an attachment a September 15, 2010 filing by GPSIC raising similar concerns in ET Docket No. 10-142, Notice of Proposed Rulemaking and Notice of Inquiry, Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz.

⁴ International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver, Public Notice, IB Docket No. 11-109, at 4 (Int'l Bur., rel. Feb. 15, 2012).

⁵ The attached chronology provides a more detailed timeline and responds more fully to your inquiry (Question 5) as to when the Commission became aware of potential interference with GPS devices.

matters on delegated authority is a practical necessity for timely and efficient completion of the Commission's business, while the opportunity for further review by the full Commission ensures that unresolved issues can be addressed by the Commissioners themselves.

Similarly, in response to your Question 2, the time periods for comment on LightSquared's request for modification of its ATC authority in November 2011 were consistent with the Commission's rules and procedures, and they were sufficient to enable the GPS industry and many other commenters to participate actively in the modification proceeding. Only one party, CTIA, requested an extension of the original filing deadlines, and the Bureau extended the deadlines in response to that request. Moreover, there was good reason for the International Bureau to avoid undue delay in considering a requested action that could facilitate the deployment of broadband services on under-utilized spectrum. LightSquared's filing involved familiar MSS/ATC operations and technologies and did not involve any change to the technical parameters of LightSquared's satellite and ATC transmitters. LightSquared's proposal involved only whether consumer devices would need to have both satellite and terrestrial capability in all cases and thus did not require significant technical or engineering review - with one exception. That one exception – presented during the comment period on the requested modification – was the newly raised concern about overload interference from LightSquared's ATC transmitters to GPS devices. Notably, the interference concerns were based on transmissions from LightSquared's base stations, yet LightSquared's request did not seek relief from any of the base station requirements. Nevertheless, the Bureau promptly and effectively addressed these overload interference concerns by creating an interference resolution process, so that any commercial service would not be permitted without prior resolution of the GPS interference issues. This process has yielded important information about GPS interference that the Commission and the public are now able to assess.

Your letter further inquires (Question 3) as to the Commission staff's reasons for adopting, in March 2010, two conditions on the SkyTerra/LightSquared transaction that required FCC approval before LightSquared could lease spectrum or make more than 25% of its network capacity available to the two largest wireless providers. Absent such conditions, LightSquared would have been able to avoid Commission review of wholesale transactions that could raise significant public interest issues. The Commission has rules, codified at 47 C.F.R. §§ 1.9001-1.9080, that generally provide for a review process for spectrum leasing and wholesaling by wireless providers. But at the time of the SkyTerra/LightSquared transaction, there were no comparable rules for MSS spectrum. The conditions proposed by LightSquared were accepted by the staff as part of its public interest analysis of this particular transaction because they helped to address this gap, which existed at the time. The Commission has since adopted a rule of general applicability that addresses the spectrum-leasing issue on an industry-wide basis and

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Finally, in response to your inquiry (Question 6) whether the Commission has independently evaluated the recent NTIA recommendations and related materials, the Commission has put out for public comment the questions raised by those materials. Initial comments were filed on March 16, 2012, and reply comments are due on March 30. After receiving those comments, the Commission and its expert technical staff will review the relevant materials, and the comments regarding them, as part of the ordinary decision-making process.

I appreciate this opportunity to respond to your questions.

Sincerely,

Julius Genachowski

Enclosure

⁷ Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHZ, ET Docket No. 10-142, Report and Order, 26 FCC Rcd 5710 (2011).

⁸Conditional Waiver Order, 26 FCC Rcd at 581-83, ¶¶ 29-35.

LIGHTSQUARED MSS/ATC CHRONOLOGY

2001

- Commission issues Notice of Proposed Rulemaking to permit mobile satellite service providers to offer an ancillary component in response to requests filed by Mobile Satellite Ventures Inc. (predecessor of SkyTerra/LightSquared) and New ICO Global Communications.
 - ➤ Invites comment on whether the proposed rules would protect GPS systems. See Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band and the 1.6/2.4 GHz band, IB Docket No. 01-185, Notice of Proposed Rulemaking, 16 FCC Rcd. 15,532 (2001).

2003

- Commission adopts rules permitting MSS licensees to integrate ATC into their satellite networks to provide mobile service to areas where satellite signals are degraded or blocked (e.g., urban areas and inside of buildings). See Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands, IB Docket Nos. 01-185, 02-364, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd. 1962 (2003) (2003 Order), as modified by Order on Reconsideration, 18 FCC Rcd. 13,590 (2003).
 - Rules require MSS licensees to offer an integrated satellite and terrestrial service – they must maintain a viable satellite service and cannot offer terrestrial service separately.
 - ➤ Rules also allowed up to 1,725 terrestrial base stations to be deployed in the L-Band, including spectrum adjacent to and below the GPS band.

2004

- International Bureau authorizes SkyTerra (formerly Mobile Satellite Ventures), to offer an integrated MSS/ATC service to users equipped with dual-mode MSS/ATC mobile devices.
 - Consistent with 2003 Order, SkyTerra is authorized to operate expansive ATC, including up to 1,725 terrestrial base stations in the L-Band. See Mobile Satellite Ventures Subsidiary LLC Application for Minor Modification of Space Station License for AMSC-1, File Nos. SAT-MOD-20031118-00333, SAT-AMD-20031118-00332, SES-MOD-20031118-01879, Order and Authorization, 19 FCC Rcd. 22,144 (IB 2004).

2005

 Commission modifies the MSS/ATC rules in response to petitions for reconsideration of the 2003 Order. See IB Docket No. 01-185, Memorandum Opinion and Order and Second Order on Reconsideration, 20 FCC Rcd. 4616 (2005) (ATC Reconsideration Order).

- ➤ Removes the 2003 Order's limitation on the number of terrestrial base stations (1,725) that may be deployed, provided operations remain within specified technical parameters.
- Revised rules are consistent with the recommendations of the GPS industry and the Executive Branch (including input from the Department of Defense).
- Commission extensively discusses potential overload interference from SkyTerra's L-Band ATC base stations to Inmarsat mobile satellite terminals, as well as potential overload interference from 2 GHz ATC mobile devices operating above 1995 MHz to PCS mobile receivers operating in the adjacent band below 1995 MHz.
- No one raises GPS receiver overload interference issue.

March-April 2009

- Harbinger and SkyTerra together file an application for transfer of control of SkyTerra to Harbinger.
- SkyTerra files an application on April 29 for modification of its authority for an ancillary terrestrial component, including requests for waivers of a number of the Commission's rules for MSS/ATC operation.
- Commission invites public comment on both requests, triggering extensive comments.

July-August 2009

- GPS industry raises concerns about SkyTerra's application for ATC
 modifications, stating that the existing out-of-band emissions limits would be
 insufficient to protect against interference to GPS from LightSquared's planned
 low power base stations and indoor "femto-cells."
 - Out-of-band emissions are not the same as receiver overload, which is the basis of the current controversy.
 - > No one raises GPS receiver overload issue.
- SkyTerra and the U.S. GPS Industry Council submit a joint letter to the Commission stating that the out-of-band emissions interference issues had been resolved. No commenter raises any other concerns about GPS interference.

March 15, 2010

 National Broadband Plan Recommendation 5.8.4 calls for the FCC to accelerate terrestrial deployment in the MSS spectrum.

March 26, 2010

Commission's bureaus and offices issue two orders addressing the 2009
 Harbinger and SkyTerra requests and comments:

License Transfer Order (SkyTerra Communications, Inc., Transferor and Harbinger Capital Partners Funds, Transferee Applications for Consent to Transfer Control of

SkyTerra Subsidiary, LLC, IB Docket No. 08-184, Memorandum Opinion and Order and Declaratory Ruling, 25 FCC Rcd 3059 (IB, OET, WTB 2010)).

- Authorizes the transfer of control from SkyTerra to Harbinger, explaining Harbinger's plans to construct a hybrid-satellite-terrestrial network that provides wholesale capacity, and noting Harbinger's plans to deploy a network that will cover 100 percent of the U.S. population via the satellite component and ultimately over 90 percent of the population via its terrestrial component.
- Observes that if Harbinger successfully deploys its integrated satellite/terrestrial network, it would be able to provide mobile broadband communications in areas where it is difficult or impossible to provide coverage by terrestrial base stations.
- Imposes conditions designed to ensure promised public interest benefits by requiring (1) build-out of MSS/ATC network and (2) Commission review of agreement involving a spectrum lease or provision of more than 25% of LightSquared's network capacity to top two wireless providers.
- First Order does not waive or alter MSS/ATC rules.

License Modification Order (SkyTerra Subsidiary LLC Application for Modification Authority for an Ancillary Terrestrial Component, *Order and Authorization*, 25 FCC Rcd 3043 (IB 2010)).

- Modifies SkyTerra's authorization to provide MSS/ATC, applying conditions to address all technical concerns raised in the comment cycle and granting a request to increase the power level of the base stations.
- Commission's bureaus coordinate with relevant Executive Branch agencies. Second Order notes DoD's concerns about potential interference to national security systems in certain circumstances and instructs the licensee to continue to work with DoD to resolve these concerns.
- No one raises GPS receiver overload interference issue.

July 15, 2010

Commission follows National Broadband Plan recommendations and initiates a rulemaking to provide greater flexibility to deploy terrestrial service in the mobile satellite service. See Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, Notice of Proposed Rulemaking and Notice of Inquiry, 25 FCC Rcd. 9481 (2010); see also Report and Order, ET Docket No. 10-142, 26 FCC Rcd 5710 (2011) (subsequent Order).

September 15, 2010

GPS Industry Council files comments in MSS rulemaking proceeding that raise
the possibility of receiver overload interference to GPS receivers at a distance of
about 100 meters from ATC base stations based on state-of-the-art filtering, and
state that for much of the mobile consumer GPS devices in use, including public

safety (e.g., 911 cellphones), the harmful interference effect would be somewhat worse.

Council further states that "[i]n earlier Commission proceedings, the Council has worked collaboratively with MSS operators of ATC to seek mutual agreements that facilitate successful MSS ATC operations and avoid interference to the GPS installed base. The Council believes that solutions are available to mitigate the otherwise unavoidable harmful effects described in these comments and looks forward to working collaboratively with interested parties to explore these issues and potential solutions." Sept. 15, 2010 Comments, ET Docket No. 10-142, at iii.

November-December 2010

- November 15: LightSquared announces the successful launch of its first nextgeneration satellite, SkyTerra 1.
- November 18: LightSquared files a request to modify its MSS/ATC authority, consistent with the MSS/ATC rules, to accommodate its business plan of selling data network capacity at wholesale to other terrestrial service providers. The request seeks to allow those service providers to offer terrestrial-only handsets at the same power levels and conditions previously granted. See LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, SAT-MOD-20101118-00239.
- International Bureau places LightSquared's November 18 request on *Public Notice*, with 10-day period for initial comments. *See* Policy Branch Information, Satellite Space Applications Accepted for Filing, Report No. SAT-00738, *Public Notice* (rel. Nov. 19, 2010).
- In response to an extension request from CTIA, Bureau extends comment deadline to December 2, 2010, with replies due December 9, 2010. See LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, SAT-MOD 20101118-00239, Order (IB, Sat. Div., rel. Nov. 26, 2010).
- In their filed comments, GPS industry, GPS users and federal interests object to LightSquared's planned MSS/ATC deployment based on a concern about potential GPS interference due to "receiver overload"; argue that the under a wholesale business model, LightSquared would no longer be motivated to protect its own satellite service.
 - > GPS community submits limited technical data and no mitigation proposal.

January 26, 2011

 International Bureau issues Conditional Waiver Order modifying LightSquared's authorization. See LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component, SAT-MOD-20101118-00239, Order and Authorization, 26 FCC Rcd 566 (IB Jan 2011)(Conditional Waiver Order).

- Denies LightSquared's request for a determination that LightSquared's proposal is consistent with existing MSS/ATC mobile terminal rules.
- Provides a conditional waiver of the MSS/ATC "integrated services" rule to allow LightSquared's wholesale customers to offer their retail users mobile terminals with only terrestrial capability, rather than "dual mode" handset capability (i.e., the ability to communicate in a single handset or terminal via either a satellite or a terrestrial network).
- Imposes conditions to ensure that LightSquared will continue to provide a commercially competitive satellite service and will continue to develop and make available dual mode MSS/ATC-capable devices.
- Establishes a process to investigate the GPS overload interference issue and stipulates that LightSquared may not offer commercial service until the process is complete and the risk of harmful interference has been resolved.

June-August 2011

- Technical Working Group submits report concerning results of testing on the GPS receiver overload issues.
 - Commission issues *Public Notice* requesting comment on the report. *See* Comment Deadlines Established Regarding the LightSquared Technical Working Group Report, IB Docket No. 11-109, *Public Notice* (rel. June 30, 2011).
- LightSquared states it will not utilize the upper 10 MHz of the L-Band in order to satisfy interference concerns.
- Commission receives over 3,000 comments in the interference resolution proceeding.

September 2011

 Commission releases Public Notice requiring additional testing. See Status of Testing in Connection with LightSquared's Request for ATC Commercial Operating Authority, IB Docket No. 11-109, Public Notice (rel. Sept. 13, 2011).

February 2012

- NTIA files letter in the interference resolution proceeding stating that it has
 monitored the testing done through the interference resolution process and has
 coordinated additional testing of LightSquared's equipment by other federal
 agencies. NTIA concludes that LightSquared's proposed mobile broadband
 network will impact GPS services and there currently is no practical way to
 mitigate the potential harmful interference from LightSquared's planned
 terrestrial operations in the 1525-1559 MHz band.
- International Bureau issues *Public Notice* seeking comment on whether it should (1) vacate the January 2011 *Conditional Waiver Order* "due to LightSquared's

inability to address satisfactorily the legitimate interference concerns surrounding its planned terrestrial operations" and (2) modify LightSquared's license "to suspend indefinitely LightSquared's underlying ATC authorization, first granted in 2004, to an extent consistent with the *NTIA Letter*." International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver, IB Docket No. 11-109, Public Notice (rel. Feb 15, 2012).

Comments on Public Notice due (after extension) on March 16; replies due on March 30. See LightSquared Technical Working Group Report, IB Docket No. 11-109, Order (IB rel. Feb. 29, 2012).



Federal Communications Commission Washington, D.C. 20554

March 28, 2012

The Honorable Fred Upton Chairman Committee on Energy and Commerce U.S. House of Representatives 2125 Rayburn House Office Building Washington, D.C. 20515

The Honorable Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Upton, Stearns, and Walden:

As agreed with Committee staff, we enclose a set of documents responsive to your February 28, 2012, letter relating to LightSquared and GPS interference issues. Specifically, the enclosed documents are unredacted versions of documents previously made available under the Freedom of Information Act. Also as discussed with Committee staff, we have separately identified and provided duplicate copies of the documents within this set of materials that provide GPS interference test results.

The enclosed documents generally relate to issues that are actively pending before the Commission, including on petitions for reconsideration and within the ongoing GPS interference resolution process. Public release of confidential deliberative materials might compromise the efficient and fair conduct of those proceedings. Additionally, some of the documents include sensitive proprietary information or other information that may be covered by the Trade Secrets Act, 18 U.S.C. § 1905. Such information would not be available to persons outside the

government, and their release may harm the legitimate interests of private entities. Based on our discussion with your staff, we understand that, subject to further conversations, documents produced by the Commission in response to your February 28 letter will be treated as confidential by the Committee and by any Member of Congress with whom they are shared. We appreciate the Committee's willingness to work with the Commission on this point.

Finally, we have not reproduced non-final drafts of official Commission actions including orders, public notices, and official correspondence—in this set of materials. To depart from longstanding FCC policy and produce such draft decisions would chill the open, frank discussions of policy between and among Commission staff and Commissioners that are needed for the FCC to do its work efficiently and effectively. It could also create confusion by suggesting that agency actions were based on rationales that were not in fact adopted. The consistent agency policy against disclosing draft decisions has added importance where, as here, the relevant decisions are currently subject to active proceedings, including requests for reconsideration. Although we are not releasing the drafts themselves, we are providing other internal deliberative material to the Committee in this production. We look forward to working with the Committee to address all its questions consistent with the above concerns.

Please feel free to contact me at 202-418-1752, or Deputy General Counsel Scan Lev at 202-418-0980, if you have any questions or require additional information.

Sincerely,

Austra C. Schlich/SR

General Counsel

Enclosures

The Honorable Henry A. Waxman, Ranking Member cc:

> The Honorable Diana DeGette, Ranking Member Subcommittee on Oversight and Investigations

The Honorable Anna Eshoo, Ranking Member Subcommittee on Communications and Technology